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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,944	10/22/2003	Camillo Mele	133569-00011-2	6188

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EXAMINER

OMGBA, ESSAMA

ART UNIT PAPER NUMBER

3726

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/690,944

Applicant(s)

MELE, CAMILLO

Examiner

Essama Omgba

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 13, 14, 16, 17 and 19-25 is/are rejected.
- 7) ☒ Claim(s) 5, 11, 12, 15 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/2/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: on page 3, line 3, --of-- should be inserted after "one"; and on page 11, line 11, "performer" should read --preformed--.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 15 is objected to because of the following informalities: in line 2, --wet-- should be inserted before "foam". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is: --introducing portions of said decorative elements in the preformed rigid foam--. This step must first be recited for claim 3 to be properly recited.
5. Claims 6 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "said live decorative elements" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "said support structure" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 4, 6-10, 12-14, 16, 17 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurensen (FR 2454752) in view of Applicant's Admitted Prior Art (AAPA).

With regards to claims 1, 14, 17 and 20-22 Laurensen discloses a method of making a decorative arrangement comprising providing a thick layer of any known hardenable malleable material (page 2, line 8-10) supported on a rigid board of wood or plastic and securing a plurality of decorative elements to the material before it dries out and hardens, see abstract. Laurensen does not specifically disclose the hardenable material as being a wet foam, however wet foam materials that harden into rigid foam are old and well known in the art as attested by Applicant's Admitted Prior Art to be known as AAPA, page 1-3 and page 8, lines 4-7. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used wet

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foam as the hardenable material in the method of Laurensen, in light of the teachings of AAPA, in order to achieve the benefits of using such known and readily available known wet foam. Applicant should note that rigid foams are widely used in the floral industry and that using a preformed rigid foam as a support structure is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in using preformed rigid foam as support structure versus any suitable support structure.

For claims 2, 4, 7 and 10, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to provide proper support for the decorative arrangement.

For claim 13, Applicant should note that sequentially applying portions of at least some of the decorative elements to the material prior to complete drying of the material is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in sequentially applying portions of some of the decorative elements to the material versus the method taught by Laurensen.

For claim 16, Applicant should note that the hardenable material of Laurensen is secured to the support structure prior to complete drying of the material.

For claim 19, Applicant should note that Laurensen contemplates the use of such decorative elements.

For claim 23, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to appropriately dry wet foam.

For claim 24, Applicant should note that mere duplication of the essential method steps involves only routine skill in the art.

For claim 25, see figure 6 of Laurenson.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to claim 2 above, and further in view of Hillenbrand (US Patent 4,044,502).

Laurenson/AAPA discloses a method of making a decorative arrangement as shown above except for providing water in the container and introducing portions of live plants into the water. However Hillenbrand teaches such an arrangement, see column 2, lines 33-34 and figure 3. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided water in the container and to have introduced portions of live plants in the water in the method of Laurenson/AAPA, in light of the teachings of Hillenbrand, in order to keep the live plants fresh.

9. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to claim 7 above, and further in view of Harris (US Patent 4,941,572).

With regards to claim 8, Laurenson/AAPA discloses a method of making a decorative arrangement as shown above except for providing the wet foam in a plurality of different colors. However it is known to provide such display foam in different colors to enhance the appearance thereof as attested by Harris, see column 4, lines 60-64. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided the foam in Laurenson/AAPA in different colors, in light of the teachings of Harris, in order to enhance the appearance of the foam.

For claim 9, Applicant should note that the particular shape of the arrangement lends no patentable weight to the method being claimed.

***Allowable Subject Matter***

10. Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claims 5, 11, 12 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claim 15 would be allowable if rewritten to overcome the objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F (10-7:30) First Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo  
May 24, 2005